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Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

Report of the Fifth Committee

Rapporteur: Mr. Noel **González Segura** (Mexico)

I. Introduction

1. At its 2nd plenary meeting, on 16 September 2011, the General Assembly, on the recommendation of the General Committee, decided to include in the agenda of its sixty-sixth session the item entitled "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" and to allocate it to the Fifth Committee.

2. The Fifth Committee considered the item at its 22nd, 24th and 25th meetings, on 13, 19 and 23 December 2011. Statements and observations made in the course of the Committee's consideration of the item are reflected in the relevant summary records (A/C.5/66/SR.22, 24 and 25).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Secretary-General on the budget for the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991, for the biennium 2012-2013 (A/66/386 and Corr.1);

(b) Report of the Secretary-General on the second performance report of the International Tribunal for the Former Yugoslavia for the biennium 2010-2011 (A/66/555);

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(c) Report of the Secretary-General on the budget for the International Residual Mechanism for Criminal Tribunals for the biennium 2012-2013 (A/66/537 and Corr.1);

(d) Related report of the Advisory Committee on Administrative and Budgetary Questions (A/66/600);

(e) Report of the Secretary-General on the revised estimates for the International Criminal Tribunal for Rwanda, the International Tribunal for the Former Yugoslavia and the International Residual Mechanism for Criminal Tribunals: effect of changes in rates of exchange and inflation (A/66/605);

(f) Related report of the Advisory Committee on Administrative and Budgetary Questions (A/66/7/Add.22).

II. Consideration of draft resolution A/C.5/66/L.12

4. At its 25th meeting, on 23 December, the Committee had before it a draft resolution entitled "Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991" (A/C.5/66/L.12), submitted by the Chair of the Committee on the basis of informal consultations coordinated by the representative of Norway.

5. At the same meeting, the Committee adopted draft resolution A/C.5/66/L.12 without a vote (see para. 6).

III. Recommendation of the Fifth Committee

6. The Fifth Committee recommends to the General Assembly the adoption of the following draft resolution:

Financing of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

The General Assembly,

I

Second performance report on the budget of the International Tribunal for the Former Yugoslavia for the biennium 2010-2011

Having considered the second performance report of the Secretary-General on the budget, for the biennium 2010-2011, of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions,[2]

Recalling its resolution 47/235 of 14 September 1993 on the financing of the International Tribunal for the Former Yugoslavia and its subsequent resolutions thereon, the latest of which were resolutions 64/240 of 24 December 2009 and 65/253 of 24 December 2010,

1. *Takes note* of the second performance report of the Secretary-General on the budget, for the biennium 2010-2011, of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991[1] and the related report of the Advisory Committee on Administrative and Budgetary Questions;[2]

2. *Endorses* the conclusions and recommendations contained in section IV.B of the report of the Advisory Committee on Administrative and Budgetary Questions;

3. *Resolves* that, for the biennium 2010-2011, the amount of 320,511,800 United States dollars gross (289,810,000 dollars net) approved in its resolution 65/253 for the financing of the International Tribunal for the Former Yugoslavia shall be adjusted by the amount of 6,960,500 dollars gross (a decrease of 3,797,400 dollars net), for a total amount of 327,472,300 dollars gross (286,012,600 dollars net);

[1] A/66/555.

[2] See A/66/600.

II

Budget of the International Tribunal for the Former Yugoslavia for the biennium 2012-2013

Having considered the reports of the Secretary-General on the financing of the International Tribunal for the Former Yugoslavia for the biennium 2012-2013[3] and on the revised estimates arising from changes in rates of exchange and inflation,[4]

Having also considered the related reports of the Advisory Committee on Administrative and Budgetary Questions,[5]

1. *Takes note* of the reports of the Secretary-General on the financing of the International Tribunal for the Former Yugoslavia for the biennium 2012-2013[3] and on the revised estimates arising from the effects of changes in rates of exchange and inflation;[4]

2. *Notes with appreciation* the support of the Government of the Netherlands to the work of the Tribunal;

3. *Endorses* the conclusions and recommendations contained in the related reports of the Advisory Committee on Administrative and Budgetary Questions,[5] subject to the provisions of the present resolution;

4. *Recognizes* the critical importance of retaining highly skilled and experienced staff members with relevant institutional memory in order to successfully complete the trials and meet the targets set out in the completion strategy of the Tribunal;

5. *Commends* the Secretary-General for innovative solutions in applying the Staff Regulations and Rules of the United Nations for staff retention purposes;

6. *Reaffirms* paragraph 5 of its resolution 63/256 of 24 December 2008 and paragraph 6 of section II of its resolution 64/239 of 24 December 2009, and requests the Secretary-General to utilize his existing authority under the existing contractual framework to offer contracts to staff, taking into account the needs of the Tribunal;

7. *Requests* the Secretary-General to continue to provide guidance to the Tribunal on all matters relating to the recruitment and administration of human resources;

8. *Encourages* the Secretary-General to exercise due diligence in applying staff rule 12.3 on exceptions to the Staff Rules in the context of the decisions on retention of the staff members in the Tribunal, and requests the Secretary-General to ensure that exceptions granted to the Tribunal based on the existing legislative framework shall not constitute a precedent for other United Nations entities;

9. *Requests* the Secretary-General to provide greater clarity on temporary posts and positions funded through general temporary assistance funds in his next report;

10. *Decides* to appropriate to the Special Account for the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former

[3] A/66/386 and Corr.1.

[4] See A/66/605.

[5] See A/66/600 and A/66/7/Add.22.

Yugoslavia since 1991 a total amount of 281,036,100 dollars gross (250,814,300 dollars net) for the biennium 2012-2013, as detailed in the annex to the present resolution;

11. *Also decides* that the financing of the appropriation for the biennium 2012-2013 under the Special Account shall take into account the estimated income of 299,500 dollars for the biennium, which shall be set off against the aggregate amount of the appropriation;

12. *Further decides* that the total assessment for 2012 under the Special Account, amounting to 147,328,800 dollars, shall consist of:

(a) 140,368,300 dollars, being half of the estimated appropriation approved for the biennium 2012-2013, after taking into account 149,750 dollars, which is half of the estimated income for the biennium of 299,500 dollars,

(b) 6,960,500 dollars, being the increase in the final appropriation for the biennium 2010-2011 approved by the General Assembly in paragraph 3 of section I above;

13. *Decides* to apportion the amount of 73,664,400 dollars gross (60,730,000 dollars net) among Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for 2012;

14. *Also decides* to apportion the amount of 73,664,400 dollars gross (60,730,000 dollars net) among Member States in accordance with the scale of assessments applicable to peacekeeping operations for 2012;

15. *Further decides* that, in accordance with the provisions of its resolution 973 (X) of 15 December 1955, there shall be set off against the apportionment among Member States, as provided for in paragraphs 13 and 14 above, their respective share in the Tax Equalization Fund of the estimated staff assessment income of 25,868,800 dollars approved for the International Tribunal for the Former Yugoslavia for 2012.

Annex

Financing for the biennium 2012-2013 of the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991

	Gross	*Net*
	(United States dollars)	
Estimated appropriation for the biennium 2012-2013	282 887 000	252 227 300
Revised estimates: effect of changes in rates of exchange and inflation	4 707 000	3 952 200
Recommendations of the Advisory Committee on Administrative and Budgetary Questions		
Recommendations of the Fifth Committee	(6 557 900)	(5 365 200)
Estimated initial appropriation for the biennium 2012-2013	281 036 100	250 814 300
Less:		
Estimated income for the biennium 2012-2013	(299 500)	(299 500)
Total assessment for 2012	**147 328 800**	**121 460 000**
Comprising:		
(a) Requirements representing half of the estimated appropriation for the biennium 2012-2013, after taking into account 149,750 dollars, which is half of the estimated income for the biennium 2012-2013 of 299,500 dollars	140 368 300	125 257 400
(b) Requirements arising from the final appropriation for the biennium 2010-2011	6 960 500	(3 797 400)
Of which:		
Contributions assessed on Member States in accordance with the scale of assessments applicable to the regular budget of the United Nations for 2012	73 664 400	60 730 000
Contributions assessed on Member States in accordance with the scale of assessments applicable to peacekeeping operations of the United Nations for 2012	73 664 400	60 730 000